

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 AMY JOHNSON,

11 Plaintiff,

12 v.

13 MICHAEL J. ASTRUE, Commissioner
of the Social Security Administration

14 Defendant.
15

CASE NO. 11-cv-05168-BHS-JRC

REPORT AND RECOMMENDATION
ON STIPULATED MOTION FOR
REMAND

16 This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28
17 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by Mathews,
18 Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court on
19 Defendant's stipulated motion to remand the matter to the administration for further
20 consideration. (ECF No. 16.)

21 After reviewing Defendant's stipulated motion and the remaining record, the undersigned
22 recommends that the Court grant Defendant's motion and order that the case be **REVERSED**
23 and **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g).
24

1 On remand, based on the parties' stipulation, this Court recommends that the
2 Administrative Law Judge assigned to this matter following remand (hereinafter "the ALJ")
3 should 1) give further consideration to the medical evidence, specifically, the opinions of the
4 psychological consultative examiner and the psychiatric State Agency medical consultant and
5 resolve any inconsistencies; 2) in light of the preceding, give further consideration to Plaintiff's
6 residual functional capacity; 3) give further consideration at step four to Plaintiff's ability to do
7 her past work; and 4) unless Plaintiff is found disabled at step four, proceed to step five, even if
8 only as an alternative finding, and obtain vocational expert evidence regarding the erosion of the
9 occupational base caused by Plaintiff's assessed limitations, consistent with the Dictionary of
10 Occupational Titles; or, if inconsistent, obtain an explanation for the deviation.

11 This Court further recommends that the ALJ take any other actions necessary to develop
12 the record. In addition, Plaintiff should be granted a new hearing and should be allowed to
13 submit additional evidence and arguments to the ALJ on remand. Following proper presentation
14 to the Court, plaintiff should be allowed to seek reasonable attorney fees and costs pursuant to
15 the Equal Access to Justice Act, 28 U.S.C. § 2412(d),

16 Given the facts and the parties' stipulation, the Court recommends that the District Judge
17 immediately approve this Report and Recommendation and **REVERSE** the Commissioner's
18 decision under sentence four of 42 U.S.C. §405(g) with a **REMAND** of the cause to the
19 Commissioner for further proceedings. See, Melkonyan v. Sullivan, 501 U.S. 89 (1991).

20 Judgment should be for the Plaintiff and the file should be closed.

21 Dated this 19th day of July, 2011.

22 

23 J. Richard Creatura
24 United States Magistrate Judge